

be renewed for the balance of the calendar year, and the annual fee required hereunder shall be prorated on a monthly basis.

60-0702. BOND OF STORAGE COMPANY. Each person or corporation licensed under Section 60-0701 shall give a bond to the treasurer of the state in the penal sum of five thousand dollars, issued by a corporate surety company, to be approved by the public service commission for the faithful discharge of the duties of a public warehouseman; provided that if the licensee operates more than one public warehouse, the bond shall be increased by the sum of five thousand dollars for each additional warehouse operated. Said bond shall cover all such public warehouses as a whole and not a specific amount for each warehouse.

Approved March 10, 1947.

WATERS

CHAPTER 369

H. B. No. 148

(McInnes, Bagge, Levin, Ohnstad, Dalzell, Saumur, Luick)

REPAIRS OF EXISTING DRAINS BY COUNTY COMMISSIONERS

AN ACT

To amend and reenact Section 61-2142 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 14 of the Special Session Laws of North Dakota for the year 1944 as amended by Chapter 329 of the Session Laws of North Dakota for the year 1945, relating to repairs of existing drains by board of county commissioners and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 61-2142 of the North Dakota Revised Code of 1943 as amended by Chapter 14 of the Special Session Laws of North Dakota for the year 1944 as amended by Chapter 329 of the Session Laws of North Dakota for the year 1945 is hereby amended and reenacted to read as follows:

61-2142. DRAIN KEPT OPEN AND IN REPAIR BY BOARD OF COUNTY COMMISSIONERS; COST OF.] All drains that may

have been constructed under any law of this state, or that may be constructed under the provisions of this chapter and situated in this state, shall, except as otherwise provided, be under the charge of the board of county commissioners and their successors in office and it shall be the mandatory duty of the board of county commissioners and their successors in office to keep said drain open and in good repair. In all cases when any completed drain is or may be situated in more than one county the care of the portion lying within any county is hereby assigned to the board of county commissioners of such county to be by it kept open and in repair. The cost of such keeping open and in repair shall in all cases be assessed, levied and collected in the same manner as is provided in this chapter for the construction of drains in the first instance, and in cases when no assessments of benefits shall have been made, the board of county commissioners having charge of or to whose care such drain may be assigned shall make such assessments.

Provided that any work of cleaning out or repairing any drain, the cost of which said work is not in excess of one hundred and fifty dollars in any one year, may be done by day work or under contract therefor, which contract may be let without such work being advertised and the expense thereof shall be paid out of the county road and bridge fund.

Provided that the levy in any one year for cleaning out or repairing any drain shall not exceed a maximum of fifty cents per acre on any lands in such drain district. Provided further that the board of county commissioners may accumulate a fund for such purpose, but such fund shall not exceed the maximum levy allowable for one year.

Provided that all such cleaning out and repair shall be let by bids as provided by law except that the said board of county commissioners may in their discretion reject any and all bids and perform such work with county equipment or enter into an agreement with any state or federal agency for such cleaning out and repair of drains. Provided that such discretionary power in the board of county commissioners shall expire on June 1, 1949 and that on and after June 1, 1949 such cleaning and repair can only be let by bids as provided by law.

Provided that where such a county drain runs through or adjacent to an incorporated city or village, the governing body of such city or village is hereby authorized to contribute to the expense of cleaning such drain in such amount as may be agreed upon between such governing board and the county commissioners.

Provided, however, that if such levy and the funds accumulated in said drain fund shall not be sufficient for properly cleaning out or repairing such drains, the board of county commissioners may spend more than the above maximum limit as follows:

1. Upon presentation to the board of county commissioners of a petition signed by property owners liable for ten per cent or more of the cost of such repair or improvement requesting the cleaning out and repair of an established drain, the board of county commissioners shall forthwith give notice by registered mail, to all property owners interested in such drain, of a hearing upon such petition at some convenient time and place;
2. At such hearing after the purpose of the proposed improvement and repair has been explained, and the probable cost all other pertinent information has been presented, the signers of such petition shall have the right to withdraw their names. Other owners of property within the drainage district shall at that time have the right to add their names to such petition at the time of the hearing or within twenty days thereafter, if they so desire;
3. If, after ten days and within twenty days thereafter, petitions are signed containing the signatures of persons owning property which is liable for fifty-one per cent or more of the cost of such repair or improvement; the board of county commissioners shall proceed in the regular way with such repair or improvement.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1947.

CHAPTER 370

S. B. No. 170

(Morgan and Raschko at the request of State Water Conservation Commission)

FLOOD IRRIGATION PROJECTS—HEARING, NOTICE, REVIEW OF ASSESSMENTS, ETC.

AN ACT

To amend and reenact sections 61-1212, 61-1217, 61-1228 and 61-1238 of the North Dakota Revised Code of 1943 relating to hearing on petition for flood irrigation projects, notice; review of assessment, notice; collection of irrigation taxes; interest rate on flood irrigation bonds; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 61-1212 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1212. TIME FOR HEARING FIXED; NOTICE.] Upon the filing of the engineer's report the board of flood irrigation shall fix a date and public place for hearing objections to the petition, and the place of such hearing shall be some point in the vicinity of the proposed improvement, convenient and accessible for the majority of the landowners affected. At least ten days' notice of such hearing shall be given by publishing such notice once each week for two successive weeks in the official newspaper in each county in which the proposed project, or any part thereof, is located, if any is published therein, and if none is printed in the county then in the official newspaper printed in an adjoining county in the state. The hearing shall be held at least ten days after the last publication.

§ 2. AMENDMENT.] That Section 61-1217 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1217. REVIEW OF ASSESSMENT; TEN DAY NOTICE; PLACE OF HEARING.] Ten days' notice of the time when and the place where an assessment of damages will be reviewed by the board of flood irrigation shall be given by publication in official newspaper in each county in which the proposed project, or any part thereof, is located, if any is published therein, and if none is printed in the county then in the official newspaper printed in an adjoining county in the state. The place appointed for such hearing shall be in the vicinity

of the proposed improvement convenient and accessible for the majority of the landowners affected. At the time and place appointed, such board shall proceed to hear all complaints or objections relative to such assessment of damages and correct or confirm the same.

§ 3. AMENDMENT.] That Section 61-1228 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1228. COLLECTION OF FLOOD IRRIGATION TAXES; PAYMENT OF EXPENSES.] The flood irrigation taxes shall be collected by the county treasurer and all moneys so collected shall be credited to the flood irrigation fund to which they belong, and the county treasurer shall be the custodian of such funds. Payment of all the expenses and costs of locating and constructing any such project shall be made upon approval by the board of flood irrigation. Warrants therefor shall be signed by the chairman and secretary of the board. All such warrants, after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by him, and thereafter shall bear interest at a rate not exceeding five per cent per annum.

§ 4. AMENDMENT.] That Section 61-1238 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1238. INTEREST RATE OF BONDS.] Flood irrigation bonds issued as provided in this chapter shall bear interest at a rate not exceeding five per cent. Interest and principal may be payable under the amortization plan over a period of not to exceed twenty years, or the principal may be divided into such amounts and made payable at such periods, not exceeding twenty years, as the board of county commissioners may determine.

§ 5. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1947.

CHAPTER 371

S. B. No. 226—(Nelson of McKenzie)

ISSUANCE OF BONDS FOR REFUNDING OR PAYING OUTSTANDING
BONDS OF IRRIGATION DISTRICTS

AN ACT

To authorize irrigation districts to issue bonds for the purpose of refunding or paying outstanding bonds, regulating the issuance and providing for the payment thereof; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.] That each irrigation district in this state that has heretofore issued or shall hereafter issue bonds purporting to have been issued for any purpose authorized by law, which bonds have been actually sold and delivered to purchasers for value and constitute an existing indebtedness, may at any time after maturity or before maturity, with the consent of the holder, refund the same and issue and negotiate new bonds for the amount of such indebtedness or any part thereof.

§ 2.] When in the judgment of the board of directors of an irrigation district it shall be to the best interests of such irrigation district to issue its negotiable bonds in the name of such irrigation district for the purpose of refunding or paying outstanding bonded indebtedness, or any issue of bonded indebtedness of such irrigation district, as enumerated in Section 1 of this Act, refunding bonds may be issued pursuant to resolutions duly passed at a regular or special meeting of such board of directors. Such bonds may be signed the same as the bonds to be refunded or by such officers of the irrigation district issuing the same as may be designated in the resolutions providing for their issuance.

§ 3.] Bonds issued by any irrigation district under the provisions of this chapter shall be made payable serially and the last installment shall become payable not more than forty years from the date of their issue and no bonds shall draw a higher rate of interest than the bonds refunded. Such bonds shall be in such denominations as shall be designated in the resolutions authorizing their issuance, shall bear the date of their issuance and the date of their maturity, shall recite that they are issued under and by authority of this Act, shall be payable to purchaser or bearer, and shall have interest coupons attached to each bond representing each interest payment. Such bonds may be made payable at definite maturities or may provide for payment on or before the specified date of maturity.

§ 4.] Said bonds may be exchanged at par for an equal amount of the old bonds of said irrigation district with the holder of said old bonds or may be sold as other bonds of the irrigation district by the board of directors of the irrigation district at not less than their par value and the proceeds applied solely to the payment of the indebtedness for which the old bonds were issued.

§ 5.] No more of such refunding bonds shall be issued than are necessary for the purpose of paying the outstanding bonds of the irrigation district issuing the same, as stated in Section 1 of this Act, after applying the cash in the treasury available for the payment of said former bonds, and no bonds issued under the authority of this Act shall be issued or negotiated for less than their par value.

§ 6.] All assessments made by an irrigation district for the payment of the bonds to be refunded shall inure to the benefit of the holders of the refunding bonds and the proceeds of such assessments shall be utilized for the purpose of paying the interest and principal of said refunding bonds, and the board of directors of the irrigation district shall levy an assessment against the lands of the district, as provided by law for levying assessments, sufficient to pay the interest on such refunding bonds and to create a sinking fund to retire such bonds at maturity.

§ 7.] All provisions of law relating to the assessment in irrigation districts and the collection thereof for the purpose of raising funds for the payment of bonds of an irrigation district shall be applicable to bonds issued under the provisions of this Act.

§ 8. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1947.

CHAPTER 372

S. B. No. 231
(Dahlen and Nelson of McKenzie)

ORGANIZATION OF IRRIGATION DISTRICTS
AN ACT

To Amend and Reenact Sections 61-0501, 61-0503, 61-0505, 61-0507, 61-0508, 61-0509, 61-0511, 61-0513, 61-0515, 61-0516, 61-0601, 61-0615, and 61-0622 of the North Dakota Revised Code of 1943, relating to irrigation districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 61-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0501. DEFINITIONS.] As used in this chapter and in succeeding chapters dealing with irrigation districts:

1. "Elector" shall mean any land owner owning not less than five acres of land whose land will be or is subject to, assessments for construction or other costs, within a proposed or existing irrigation district, and who is a resident of this state. As herein used the term "owner" shall include:
 - a. An entryman of government lands;
 - b. A purchaser of land under contract;
 - c. A guardian, executor, administrator, or trustee;
 - d. A corporation organized and existing under the laws of this state; and
 - e. The United States of America and the state of North Dakota;
2. The term "works" shall include canals, ditches, pumping plants, rights-of-way, easements, reservoirs, dams, and the necessary sites for pumping plants, reservoirs, and dams and all means and property required for a completed operating system of irrigation works;
3. "Board" shall mean the board of directors of any irrigation district.

§ 2. AMENDMENT.] That Section 61-0503 of the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted to read as follows:

61-0503. VOTES OF ELECTORS; NUMBER PERMISSIBLE.] Any elector owning twenty acres and not less than five acres or less, subject to assessments for construction or other costs

within a proposed or existing district, shall have one vote, and any elector owning more than twenty acres subject to such assessments within such district shall have one additional vote for each additional twenty acres or major fraction thereof, but no elector shall be entitled to cast more than eight votes in any district election regardless of the number of acres of land owned by him in the district.

§ 3. AMENDMENT.] That Section 61-0505 of the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted to read as follows:

61-0505. CO-OWNERS OF LAND IN IRRIGATION DISTRICT; WHO MAY VOTE.] Where lands within a proposed or existing irrigation district are owned by co-owners only, such co-owners who are residents of this state may vote their respective interest personally, or such co-owners by an instrument in writing, may designate one of their number as agent to cast the vote for each such co-owner. Provided, that in no event shall any such co-owner be entitled to cast, less than one full vote, or any vote or votes constituting any fraction of one vote. Such instrument shall be acknowledged by such co-owners and shall be presented to and filed with the clerk of the district election board.

§ 4. AMENDMENT.] That Section 61-0507 of the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted to read as follows:

61-0507. PETITION FOR A PROPOSED IRRIGATION DISTRICT; FILED WHERE; SIGNED BY WHOM; CONTENTS.] A petition for a proposed irrigation district shall be filed with the state engineer and shall be signed by electors of the proposed district who together shall own a majority of the whole number of acres subject to assessments for construction or other costs within the district, requesting that the territory described in such petition be organized under the provisions of this chapter. Such petition shall set forth the name and address of each petitioner and a description of his land, and the petition shall have attached thereto a map or maps showing the boundaries of the proposed district.

§ 5. AMENDMENT.] That Section 61-0508 of the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted to read as follows:

61-0508. PETITION ACCOMPANIED BY MAP; CONTENTS OF MAP; SCALE OF MAP.] The petition provided for in Section 61-0507 shall be accompanied by a map or maps of the proposed district. Such map shall show the location of the proposed canals or works by means of which it is intended to irrigate the lands of the proposed district, but canals that

merely pass through said lands, and which do not irrigate any of the same, need not be shown. If the water supply is from a natural stream, the flow of such stream shall be stated in cubic feet per second. If the water supply for the district is to be gathered by a storage reservoir or reservoirs, the map shall show the location thereof and shall state their capacity in acre feet. Unless otherwise permitted by the state engineer, such map shall be drawn to a scale of not less than two inches to the mile. Typical cross sections of the proposed canal or canals, and of all canals existing within the boundaries of the proposed district and shown on the map, and of all proposed dams and embankments, shall be given in sufficient detail to show the contemplated method of construction, and the capacity of the typical canals required for the irrigation of the lands within the proposed district shall be stated. Such cross sections shall be drawn to the scale required by the State engineer, and such map and cross sections shall be certified by an experienced engineer.

§ 6. AMENDMENT.] That Section 61-0509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0509. PETITION ACCOMPANIED BY BOND; APPROVAL OF BOND; CERTIFIED COPY OF PETITION FILED.] Unless otherwise permitted by the state engineer the petition shall be accompanied by a good and sufficient bond to be approved by the state engineer, which shall be in double the amount of the probable cost of organizing such district, including the cost of the first election for the organization of the district and shall be conditioned that the sureties will pay all costs in case said organization shall not be approved by the electors. Within ten days after the filing of such petition, and the approval of such bond, the state engineer shall file a copy of such petition with the county auditor of each county wherein the proposed irrigation district is situated.

§ 7. AMENDMENT.] That Section 61-0511 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0511. AMENDMENT OF PLAN OF IRRIGATION; ADJOURNMENT OF HEARING BY STATE ENGINEER.] At the hearing provided in Section 61-0510, the state engineer may amend the plan of irrigation proposed in the petition provided in Section 61-0507. The state engineer may adjourn such hearing from time to time and may make such changes in the proposed boundaries of the district as he shall deem advantageous and advisable, but the boundaries of the district proposed in the petition for its organization shall not be enlarged or extended until the electors who own a majority of the acres of

land subject to assessments for construction or other costs to be included in the extension have in writing consented thereto.

§ 8. AMENDMENT.] That Section 61-0513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0513. STATE ENGINEER TO MAKE ORDER ESTABLISHING IRRIGATION DISTRICT; CALLING ELECTION; DIVIDING DISTRICT; CONTENTS OF ORDER.] If the state engineer shall have found and determined that the establishment of the proposed irrigation district is advisable, and that the plan proposed for irrigating the lands therein is practicable and economically sound, he shall make an order establishing such irrigation district, subject to the approval of the electors of the district at an election called by the state engineer for that purpose. If the district embraces more than ten thousand acres of land, the state engineer by such order shall divide the district into three, five or seven divisions or precincts as he shall deem necessary for the convenience of the electors of the district. Such divisions or precincts shall be as nearly equal in size as may be deemed practicable, such divisions shall be numbered, and one director shall be elected from, and by the electors of, each division. If an elector owns land in more than one division, he shall cast all his votes for director in the division in which the majority of his land subject to assessment lies. Such order shall set forth:

1. The time and place of holding such election;
2. The boundaries of the district;
3. That a petition sufficient in form and substance was filed with the state engineer;
4. That due and reasonable notice of time and place of hearing on petition was given to the qualified electors of the proposed irrigation district.

A copy of such order shall be filed with the county auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

§ 9. AMENDMENT.] That Section 61-0514 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0514. NOTICE OF ELECTION BY STATE ENGINEER; CONTENTS; PUBLICATION OF.] Upon making his order establishing an irrigation district, the state engineer shall give notice of an election to be held in such district for the purpose

of determining whether or not the electors of the district approve the establishment and organization thereof as an irrigation district. Such notice shall state that an elector desiring to be a candidate for the office of district director shall file his or her name with the state engineer not less than ten days before such election. Such notice shall carry a reference to the map or maps previously filed with the county auditor describing the boundaries of the lands included in the district as established by the state engineer, and shall designate a name for such district. Such notice shall be filed with the county auditor of each county in which the proposed district is situated and shall be published once each week for two weeks prior to such election in the official newspaper in the county in which the proposed district is situated. If no official newspaper is published in such county, then it shall be published in the official newspaper in an adjoining county. If the proposed irrigation district is situated in more than one county, such notice shall be published in the official newspaper, if one is published, within each of such counties.

§ 10. AMENDMENT.] That Section 61-0515 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0515. FORM OF NOTICE OF ELECTION.] The notice of election provided for in Section 61-0514 shall be substantially in the following form:

NOTICE OF ELECTION

Notice is hereby given that on the day of 19....., an election will be held for the purpose of submitting to the electors within the territory established and described by the order of the state engineer as irrigation district, the question as to whether or not the order of the state engineer establishing such irrigation district shall be approved. Notice is hereby given that the lands of such district are fully described in the order of the state engineer establishing the district and filed in his office at the State Capitol in Bismarck, North Dakota, and in the office of the county auditor of County, North Dakota. The ballot will be in the following form:

FOR IRRIGATION DISTRICT

Yes
No

Notice is further given that a board consisting of directors will be elected, one from each district division, who will serve as provided by law after the establishment of the district is approved. Polls will be open from one o'clock p. m. to seven o'clock p. m. Notice is further given that any elector desiring to be a candidate for the office of district director and have his name appear on the ballot must file his request in writing with the state engineer not less than ten days before the said election.

Dated this day of, 19.....

Signed.....
State Engineer

§. 11 AMENDMENT.] That Section 61-0516 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0516. STATE ENGINEER TO APPOINT CLERK AND TWO JUDGES OF ELECTION; FILLING VACANCIES ON BOARD.] Prior to the holding of an election upon the question of establishing and organizing an irrigation district, the state engineer shall appoint from the electors of the district one clerk and two judges who shall constitute a board of election for such district. If the district is divided into divisions or precincts, such board of election shall be appointed from the electors of each such division and shall serve as a board of election therein. If the members appointed do not attend at the opening of the polls on the day of election, the electors present at that hour may choose the members of the election board or fill the place of an absent member thereof.

§ 12. AMENDMENT.] That Section 61-0601 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0601. BOARD OF DIRECTORS OF IRRIGATION DISTRICT; TERMS; VACANCIES.] If an irrigation district contains less than ten thousand acres of land and is not divided into precincts or divisions, the board of directors thereof shall consist of three directors who shall be residents and electors of the district and shall be elected at large. One director elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, one director shall serve until the first Tuesday in April following the second regular election, and one director shall serve until the first Tuesday in April following the third regular election.

If an irrigation district contains ten thousand acres or more and is divided into three, five or seven divisions or precincts, as the case may be, one director shall be elected from and by the electors of each division or precinct.

If an irrigation district contains ten thousand acres or more and is divided into five divisions or precincts, the board of directors of such irrigation district shall consist of five directors. Two directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April following the second regular district election, and one director shall serve until the first Tuesday in April following the third regular district election.

If an irrigation district contains ten thousand acres or more and is divided into seven divisions or precincts, the board of directors of such irrigation district shall consist of seven directors. Three directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April following the second regular district election, and two directors shall serve until the first Tuesday in April following the third regular election.

The terms of office of the directors elected at such first election for the organization of the district shall be determined by lot at their first meeting. Directors elected at subsequent elections shall serve for three years and until their successors are duly elected and qualified. In case the office of any director shall become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose office he has been appointed to fill. In the event that vacancies shall occur in the offices of a majority of the directors of an irrigation district, the remaining members and the state engineer shall fill the vacancies; and in the event that the offices of all the directors shall become vacant, the state engineer shall appoint the members of the board and they shall serve until the next regular election of the district. Their successors in office shall then be elected to serve the unexpired term of the directors whose offices became vacant. The unexpired term of office which each director thus elected shall fill shall be determined by lot.

§ 13. AMENDMENT.] That Section 61-0615 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0615. OPENING AND CLOSING HOURS OF POLLS AT IRRIGATION DISTRICT ELECTIONS.] The polls shall be opened at one o'clock p. m. of the election day and for a regular irrigation district election shall be kept open until five o'clock p. m. of the same day.

§ 14. AMENDMENT.] That Section 61-0622 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0622. SALARY OF OFFICERS AND DIRECTORS; LIMITATION ON.] Each director shall receive five dollars per day and mileage at the rate of five cents per mile when attending meetings, and, in addition, actual and necessary expenses while engaged in official business under the order of the board. The salary of the secretary, assessor, and treasurer shall be determined by the board of directors.

Approved March 20, 1947.

CHAPTER 373

S. B. No. 171

(Morgan and Raschko at the request of the State Water Conservation Commission)

WATER CONSERVATION DISTRICTS—SECRETARY, BOARD POWERS, TAX LEVY, ETC.

AN ACT

To amend and reenact sections 61-1610, 61-1614, 61-1615, 61-1619 and 61-1628 of the North Dakota Revised Code of 1943 relating to water conservation districts and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 61-1610 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1610. COUNTY AUDITOR SHALL SERVE AS SECRETARY OF BOARD AND COUNTY TREASURER AS CUSTODIAN OF WATER CONSERVATION DISTRICT FUNDS.] When a district is confined to the limits of one county, the county auditor shall serve as secretary of the board and the county treasurer shall serve as treasurer of the district and custodian of all funds from whatever sources received. In such case the county

auditor and county treasurer shall serve without additional compensation. When such district includes land in two or more counties, the county auditor of the county having the greatest acreage within the district shall serve as secretary of the board of commissioners and the treasurer of such county shall act as custodian of funds furnished the district by the state, federal government or by any department or agency thereof, or secured from private sources. Such funds shall be disbursed upon warrants signed by the chairman of the board of commissioners of the district and countersigned by the secretary. All claims against a district shall be certified the same as claims against the county. The secretary and treasurer of a water conservation district situated in two or more counties shall receive such compensation for their services as may be determined by the commissioners of the district subject to the approval of the board of county commissioners of each county in which the district is situated.

§ 2. AMENDMENT.] That Section 61-1614 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1614. POWERS AND DUTIES OF BOARD OF COMMISSIONERS.] The board of commissioners shall have the power to:

1. Sue and be sued in the name of the district;
2. Exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation devices of any nature and to flood lands, and to secure the right of access to such dams and other devices and the right of the public access to the waters impounded thereby;
3. Accept funds and property or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purposes of aiding the construction or maintenance of water conservation and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing and meeting local cooperation requirements of any project involving control, conservation, and use of water;
4. Procure the services of engineers and other technical experts, and when a district is situated in two or

- more counties, employ an attorney or attorneys to assist, advise, and act for it in its proceedings;
5. Plan, locate, relocate, construct, reconstruct, modify, maintain, repair, and control all dams and water conservation devices of every nature and water channels and to control and regulate the same and all reservoirs, artificial lakes, and other water storage devices within the district;
 6. Maintain and control the water levels and the flow of water in the bodies of water and streams involved in water conservation and flood control projects within its district;
 7. Make rules and regulations concerning the use to which such waters may be put and prevent the pollution, contamination, or other misuse, of the water resources, streams, or bodies of water included within the district;
 8. Certify to the county auditor of the county in which the district is located the amount of money necessary to meet the estimated expenses of properly conducting its activities during the ensuing year, such certificate to be filed with the county auditor on or before the first day of July in each year. In the case of a district in more than one county, the board shall make an order determining the proportionate share of the costs chargeable to each county and shall certify the same to the county auditor of each county. Such certificate in all cases shall be accompanied by an itemized budget statement showing the full and exact expenditure program of the district for the ensuing year. If any county feels aggrieved by the determination made by the board, an appeal may be taken by such county to the district court in the manner provided in this chapter; and
 9. Do all things reasonably necessary and proper to preserve for the people of this state the benefits to be derived from the conservation of the water resources of this state.

§ 3. AMENDMENT.] That Section 61-1615 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1615. TAX LEVY BY BOARD OF COUNTY COMMISSIONERS; AMOUNT; ALLOCATION OF LEVY IN DISTRICT; FINANCING BY SPECIAL ASSESSMENTS.] At the time of levying taxes for other county purposes, the board of county commissioners shall consider the certificate of the board of commissioners of

each district within the county, and it shall levy each year upon all taxable property within the county a tax sufficient in amount to pay the actual necessary expenses of such water conservation districts, not exceeding a total of one-half mill on each dollar of taxable valuation of the county for all districts included therein. In case the total estimated expense of all districts would exceed the levy of one-half mill, the board of county commissioners shall allocate any levy which it may make among the several districts of the county in proportion to the actual needs of such districts as determined by the board of county commissioners from the budget statements presented, and such other evidence as may be available. Such tax levy for water conservation purposes, not exceeding one-half mill, may be levied in excess of the mill limit fixed by law for taxes for general purposes. The county auditor shall credit the proceeds of such tax to each district in accordance with the division thereof fixed by the board of county commissioners. If, in the judgment of the board of county commissioners, it appears that the expense of acquisition of a right-of-way or other interests in property, or the construction or maintenance of any project, should not be spread over the entire county, but should be borne by the property specially benefitted thereby, the board may refuse to levy a tax for such purpose and may require that such work be financed, if at all, by special assessments as provided in this chapter.

§ 4. AMENDMENT.] That Section 61-1619 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1619. NOTICE OF HEARING TO CONSIDER FINANCING BY SPECIAL ASSESSMENT WARRANTS; CONTENTS.] If it is proposed to finance any water conservation project by special assessment warrants, the board of commissioners shall give at least ten days' notice of a hearing to be held at some place convenient to the owners of property to be affected by the project. Notice of such hearing shall be given by publication of such notice once each week for two successive weeks, in a newspaper of general circulation in each county in which the district or any part thereof is situated, if any is published therein, and if none is published in the county, then in a newspaper published in an adjoining county in the state. Notice by publication shall be complete ten days after the last publication thereof. The notices of hearing shall set forth briefly the nature of the project proposed and shall state that the board of commissioners, at the time and place stated in the notice, will consider the advisability and feasibility of the project, and if approved, will proceed to assess and determine the damages, if any, to be suffered by the property owners affected.

§ 5. AMENDMENT.] That Section 61-1628 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1628. STATE'S ATTORNEY AND ATTORNEY GENERAL TO ASSIST BOARDS; EMPLOYMENT OF COUNSEL.] The state's attorney of any county within which a district is located in whole or in part shall act as legal advisor of, and upon request shall render opinions in writing to, the board of commissioners, and without additional fee or charge shall prosecute any action in his county in eminent domain found necessary by either the board of commissioners of the water conservation district, or the board of county commissioners, and also shall appear as attorney for such board of county commissioners or for the commission in any appeal that may be taken in his county from a decision of either, as well as in any other litigation brought in his county against such board or commission. The attorney general shall render such legal opinions or such other assistance as he is required to render to other county and state officers. The board of water district commissioners may employ, however, other counsel to advise and represent it in such actions and appeals and in its proceedings.

§ 6. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1947.